



## New or Expanding Industry Classification Application

*This page is completed by applicant.*

Assessment Office \_\_\_\_\_

County \_\_\_\_\_

Name of Applicant \_\_\_\_\_

Mailing Address \_\_\_\_\_

Legal Description of Affected Property \_\_\_\_\_

1. Date construction permit issued \_\_\_\_\_

(If no permit is required, please specify the date when certificate was issued in lieu of building permit.)

2. This application covers the (expansion/new) construction of the \_\_\_\_\_

\_\_\_\_\_ plant.

3. Has an application for new industry classification under 15-6-135, MCA been made to the Department of Revenue for these facilities? Yes \_\_\_\_\_ No \_\_\_\_\_

4. Please list the qualifying property below.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please attach site plat, construction prints and detailed equipment list identifying the above property, along with complete installed costs for each qualifying component.

5. Complete this section only if the application is for a firm that:

- engages in transportation, warehousing or distribution of commercial products, if 50% or more of the gross receipts are earned from outside the state; **or**
- earns 50% or more of its annual gross income from out-of-state sales.

Type of business \_\_\_\_\_

Total gross sales or receipts .....\$ \_\_\_\_\_

Total gross income .....\$ \_\_\_\_\_

Sales and receipts from outside of Montana.....\$ \_\_\_\_\_

Income earned from sales outside of Montana.....\$ \_\_\_\_\_

(attach income statements)

Signature of Applicant \_\_\_\_\_

Print Name \_\_\_\_\_ Date \_\_\_\_\_

***This page is completed by taxing jurisdiction.***

A public hearing on the matter of *New or Expanding Industry* resolution for \_\_\_\_\_  
\_\_\_\_\_ plant was held at the \_\_\_\_\_ County  
Courthouse at \_\_\_\_\_ AM/PM, on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

1. Due notice as defined in 76-15-103 was given. True and exact copies of said notices were provided.  
Yes \_\_\_\_\_ No \_\_\_\_\_
2. The statutory \$50,000 investment requirement for expansion or modernization has been met.  
Yes \_\_\_\_\_ No \_\_\_\_\_
3. The statutory \$125,000 investment requirement for new improvements or modernized processes has  
been met. Yes \_\_\_\_\_ No \_\_\_\_\_

This application is made under the provisions of 15-24-1402, MCA, and by the resolution adopted  
by the \_\_\_\_\_ of \_\_\_\_\_ County,  
(Taxing Jurisdiction)  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

We, the undersigned, \_\_\_\_\_ of \_\_\_\_\_.  
(Title) (Taxing Jurisdiction)  
(approve/disapprove) this application for \_\_\_\_\_.

We find that it (does/does not) conform to the criteria as set forth in the resolution adopted by  
this \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Approved tax incentive to be implemented beginning in \_\_\_\_\_.  
(Assessment Year)

Name \_\_\_\_\_ Title \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

## Controlling Statutes

**15-24-1401. Definitions.** The following definitions apply to 15-24-1402 unless the context requires otherwise:

(1) "Expansion" means that the industry has added after July 1, 1987, at least \$50,000 worth of qualifying improvements or modernized processes to its property within the same jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year.

(2) "Industry" includes but is not limited to a firm that:

(a) engages in the mechanical or chemical transformation of materials or substances into products in the manner defined as manufacturing in the North American Industry Classification System Manual prepared by the United States office of management and budget;

(b) engages in the extraction or harvesting of minerals, ore, or forestry products;

(c) engages in the processing of Montana raw materials such as minerals, ore, agricultural products, and forestry products;

(d) engages in the transportation, warehousing, or distribution of commercial products or materials if 50% or more of the industry's gross sales or receipts are earned from outside the state;

(e) earns 50% or more of its annual gross income from out-of-state sales; or

(f) engages in the production of electrical energy in an amount of 1 megawatt or more by means of an alternative renewable energy source as defined in 15-6-225.

(3) "New" means that the firm is new to the jurisdiction approving the resolution provided for in 15-24-1402(2) and has invested after July 1, 1987, at least \$125,000 worth of qualifying improvements or modernized processes in the jurisdiction either in the first tax year in which the benefits provided for in 15-24-1402 are to be received or in the preceding tax year. New industry does not include property treated as new industrial property under 15-6-135.

(4) "Qualifying" means meeting all the terms, conditions, and requirements for a reduction in taxable value under 15-24-1402 and this section.

History: En. Sec. 2, Ch. 564, L. 1981; amd. Sec. 1, Ch. 574, L. 1987; amd. Sec. 2, Ch. 694, L. 1991; amd. Sec. 29, Ch. 51, L. 1999; amd. Sec. 7, Ch. 591, L. 2001; amd. Sec. 2, Ch. 405, L. 2003.

**15-24-1402. New or expanding industry -- assessment -- notification.** (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, must be taxed at 50% of their taxable value. Subject to 15-10-420, each year thereafter, the percentage must be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(c) The resolution provided for in subsection (2)(a) must include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(d) Property taxes abated from the reduction in taxable value allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of 15-24-1401, this section, or the resolution required by subsections (2)(a) and (2)(c) of

this section. The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.

(3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. The benefit described in subsection (1) may not apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, or 20-9-360 or otherwise required under state law.

(5) Prior to approving the resolution under this section, the governing body shall notify by certified mail all taxing jurisdictions affected by the tax benefit.

History: En. Sec. 3, Ch. 564, L. 1981; amd. Sec. 2, Ch. 574, L. 1987; amd. Sec. 3, Ch. 694, L. 1991; amd. Sec. 48, Ch. 767, L. 1991; amd. Sec. 116, Ch. 27, Sp. L. November 1993; amd. Sec. 97, Ch. 584, L. 1999; amd. Sec. 1, Ch. 597, L. 2005.

## **Administrative Rule**

### **42.19.1235 Tax incentive for new and expanding industry**

(1) The industrial plant owner must make application to the governing body of the affected taxing jurisdiction on a form provided by the department of revenue, property assessment division. The form shall include, among other information, a specific description of the improvement or modernized process for which specialized tax treatment is requested, the date when construction or installation is to commence or has commenced and the date when it is to be completed. In addition, the plant owner must provide a disclosure of other property tax benefits the property receives or for which application has been made. The governing body of the affected taxing jurisdiction must approve the application and pass an approving resolution **before** tax benefits under 15-24-1402, MCA, can be received.

(2) An application must be filed on the form available from the department and received by the taxing jurisdiction **before** January first of the tax year for which the incentive is to be considered.

(3) The plant owner must notify the property assessment division by sending a copy of the approved application described in subsection (1) within 30 days after receiving approval from the affected taxing jurisdiction.

(4) The preceding year and current year's additions and investments may be considered and included for purposes of determining whether the threshold investment levels specified in 15-24-1401(1) and (3), MCA have been met.

(5) The department shall appraise the industrial plant after expansion or modernization.

(6) Only the increased value attributed to the expansion or modernization will receive tax incentives under 15-24-1402, MCA.

(7) An industrial plant which qualifies for classification as new industrial property under 15-6-135, MCA, cannot qualify for a tax incentive pursuant to 15-24-1402, MCA, as new or expanding industry property defined in 15-24-1401(3), MCA.

(8) Additional expansion or modernization of an industrial plant constructed in tax years subsequent to an expansion approved for tax incentives under 15-24-1402, MCA, does not qualify for an additional tax incentive unless an additional application is filed and an approving resolution passed.

(9) An applicant seeking to qualify pursuant to 15-24-1401(2)(d) or (e), MCA, shall include the same information and certifications as required by ARM 42.19.1222(2)(l).

(History: 15-1-201, MCA; IMP, 15-6-135, 15-24-1401, 15-24-1402, MCA; NEW, 1988 MAR p. 742, Eff. 4/14/88; TRANS, from ARM 42.19.1220, AMD, 1991 MAR p. 2638, Eff. 12/27/91; AMD, 1992 MAR p. 2559, Eff. 11/26/92; AMD, 1997 MAR p. 2297, Eff. 12/16/97; AMD, 2005 MAR p. 667, Eff. 4/29/05.)